

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

BAYER CORPORATION and
SUBSIDIARIES,

Plaintiff,

V.

UNITED STATES,

Defendant.

BAYER-ONYX, a partnership, by
BAYER HEALTHCARE, LLC, its tax
matters partner,

Plaintiff,

V.

UNITED STATES.

Defendant.

Civ. A. No. 2:09-351

Consolidated for discovery with:

Civ. A. No. 2:08-693

STATUS REPORT

The Plaintiff and Counterclaim Defendant, Bayer Corporation and Subsidiaries (collectively “Bayer”), and Defendant and Counterclaim Plaintiff, the United States of America, (collectively, the “Parties”) submit this Status Report.

There is a status conference set for Tuesday, June 22, 2010, at 3:30 p.m.

Since the time of the parties' last appearance before the Court on May 4, 2010, the parties have fully briefed Bayer's motion for a protective order and the United States' motion to compel. The parties jointly request an oral argument on

both motions. The parties respectfully submit that if the Court wishes to hear oral argument, the parties are prepared to proceed on June 22, 2010 with those arguments. The parties also believe, however, that given the importance of these issues, the Court should allow a total of at least two to three hours for the two motions combined. Alternatively, if the Court wishes to hear oral argument at a later date, the parties jointly request that the status conference be postponed to that date.

With respect to the on-going discovery process, the following have occurred:

1. The United States served a subpoena on Deloitte and Deloitte has produced documents responsive to that subpoena. The United States is reviewing the documents produced by Deloitte.
2. The United States served its second set of discovery requests on Bayer.
3. Bayer responded to both the First and the Second sets of discovery requests served by the United States. The United States is reviewing those responses. To date, Bayer has produced more than 30,000 pages of documents in response to the requests. The United States is reviewing that production. Bayer is preparing to produce an additional 3 million pages of responsive documents in the next week that will be subject to whichever protective order is issued by this Court.

Respectfully submitted,

Counsel for Plaintiffs

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